

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

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MELISSA BUISSON

Plaintiff

Civil Action No. 1:21-CV-02534

v.

UBER TECHNOLOGIES, INC. and UBER USA, LLC

Defendants

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**DEFENDANTS UBER TECHNOLOGIES, INC. and UBER USA, LLC'S
ANSWER TO PLAINTIFF'S VERIFIED COMPLAINT**

Defendants Uber Technologies, Inc. ("Uber") and Uber USA, LLC ("UberUSA")
(collectively referred to herein as "Defendants") by and through its attorneys, Coughlin & Betke,
LLP, as and for their answer to the Verified Amended Complaint of the Plaintiff, Melissa
Buisson, ("Plaintiff"), state as follows; and unless specifically answered herein, all allegations of
the Verified Complaint are denied.

1. The Defendants are without knowledge or information sufficient to form a belief as to
the truth of the allegations contained in this paragraph and call upon the plaintiff to prove the
same.

2. To the extent that the allegations in this paragraph set forth a legal conclusion, the
Defendants submit they can neither admit nor deny the allegations contained in this paragraph.
The Uber Defendants otherwise admit the allegations of this paragraph.

3. To the extent that the allegations in this paragraph set forth a legal conclusion, the
Defendants submit they can neither admit nor deny the allegations contained in this paragraph.
The Uber Defendants otherwise admit the allegations of this paragraph.

4. To the extent that the allegations in this paragraph set forth a legal conclusion, the
Defendants submit they can neither admit nor deny the allegations contained in this paragraph.
The Defendants otherwise admit the allegations of this paragraph.

5. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph.

6. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise admit the allegations of this paragraph.

7. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise admit the allegations of this paragraph.

8. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise admit the allegations of this paragraph.

9. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph.

10. Defendants can neither admit or deny the remaining allegations in this paragraph as such statements are not allegations but a conclusory statement that do not require a response.

11. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph.

12. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph.

13. Denied.

14. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph.

15. Denied.

16. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph.

17. Denied.

18. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph.

19. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph.

20. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph.

21. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph.

22. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph.

23. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants are otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and call upon the plaintiff to prove the same.

24. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants otherwise deny the allegations of this paragraph

25. Denied.

26. Denied.

27. Denied.

28. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and call upon the plaintiff to prove the same.

29. The allegations in this paragraph set forth a legal conclusion and as such the Defendants submit they can neither admit nor deny the allegations contained in this paragraph.

30. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants are otherwise without knowledge or information sufficient to form a belief as

to the truth of the allegations contained in this paragraph and call upon the plaintiff to prove the same.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. The Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and call upon the plaintiff to prove the same.

38. The Defendants can neither admit nor deny the allegations contained in this paragraph since such statements are legal conclusions.

39. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants are otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and call upon the plaintiff to prove the same.

40. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants are otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and call upon the plaintiff to prove the same.

41. To the extent that the allegations in this paragraph set forth a legal conclusion, the Defendants submit they can neither admit nor deny the allegations contained in this paragraph. The Defendants are otherwise without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph and call upon the plaintiff to prove the same.

WHEREFORE, the Defendants demand judgment dismissing the Verified Complaint, together with costs and disbursements of this action, including an award of reasonable counsel fees; and for such other and further relief as to the court may seem just and proper.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

Whatever injuries plaintiff may have sustained at the time and place alleged in the Complaint were caused in whole or in part, or were contributed to by the culpable conduct and want of care on the part of the plaintiff, or by someone over whom the answering defendant had no control, and without any negligence or fault or want of care on the part of the answering defendant, and the plaintiff with awareness of the risks associates with the activity in question, assumed the risk thereof.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

That in entering upon the activity in which the plaintiff engaged at the time of the happening of the accident set forth in the plaintiff's Amended Complaint, plaintiff knew the hazards thereof and the inherent risk to such activity and had full knowledge of the methods to be used in the performances of such activity and the danger thereof; whatever damages and injuries were sustained by plaintiff as alleged in the Amended Complaint herein arose from, and were caused by, such risks of the said activity and such risks were accepted and assumed by the plaintiff upon entering into and continuing in such activity.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

Plaintiff failed to mitigate, obviate, diminish or otherwise act to lessen or reduce the injuries, damages and disabilities alleged in the Verified Complaint.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

Plaintiff's claims against these answering Defendants, and any judgment that the plaintiff receives against these answering Defendants, must be reduced to the extent of any amount received by the plaintiff from other tortfeasors pursuant to General Obligations Law Section 15-108, and in the event that the plaintiff settles with any codefendant or other tortfeasor, or discontinues against any codefendant, the answering defendant reserves its rights under General Obligations Law Section 15-108 to prove any negligence against said codefendants and/or tortfeasors at trial.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

These answering Defendants plead that if liable at all in this matter, that liability is fifty percent (50%) or less and by reason thereof each respect defendant's equitable share determined in accordance with the relative culpability of each person or entity causing or contributing to the total liability for non-economic loss.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

Plaintiff has not sustained injuries that satisfy the New York Insurance Law serious injury threshold.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

That the complaint fails to state a cause of action.

AS AND FOR AN EIGHT AFFIRMATIVE DEFENSE

And further answering, the Defendants say that upon information and belief, any past or future costs or expenses incurred or to be incurred by the Plaintiff as for medical care, dental care, custodial care or rehabilitation services, loss of earnings or other economic loss, has been or will with reasonable certainty be replaced or indemnified in whole or in part from a collateral source as defined in Section 4545(c) of the CPLR. If any damages are recoverable against said Defendants, the amount of such damages shall be diminished by the amount of the funds which Plaintiffs have or shall receive from such collateral source.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

That to the extent that these answering Defendants had any obligations to the plaintiff, such obligations have been fully, completely and properly performed in every respect.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

That the acts complained of were not committed by a person for whose conduct the Defendants were legally responsible.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

That upon information and belief, the injuries and/or damages plaintiff alleges to have sustained were caused in whole or in part, or were exacerbated by, the plaintiff's failure to wear a seatbelt.

AS AND FOR AN TWELFTH AFFIRMATIVE DEFENSE

And further answering, the Defendants say that whatever injuries the Plaintiffs may have sustained were caused in whole or in part or were contributed to by the fault, want of care or negligence of said Plaintiffs, and the Defendants plead the same in diminution of damages, if any, recoverable by said Plaintiffs, pursuant to section 1412 of the CPLR.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

The defendant alleges the Verified Complaint, and each cause of action therein, may be barred, in whole or part, under the independent contractor defense because Gmarif Uddin was an independent contractor responsible for his own means and methods, thereby making the doctrines of respondeat superior and agency inapplicable.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE:

This answering Defendant is informed and believes and thereon alleges that this dispute is subject to an arbitration agreement between Plaintiff and this answering defendant, such that this matter is properly brought before a qualified arbitrator rather than in the instant court.

JURY CLAIM

The Defendants Uber Technologies, Inc. and Uber USA, LLC hereby make a claim for a trial by jury as to all issues.

Respectfully submitted by,
The Defendants,
UBER TECHNOLOGIES, INC. and UBER USA, LLC,
By its attorney,

/s/Christopher G. Betke, Esq.

Christopher G. Betke, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically and via first class mail, postage prepaid, to all counsel of record on May 13, 2021.

/s/ Christopher G. Betke

Christopher G. Betke